

**FINAL REPORT OF THE DEPARTMENT OF JUSTICE
USE OF DEADLY FORCE BY MILFORD POLICE DEPARTMENT**

SUBJECT: BRANDON D. ROBERTS

OFFICERS: NIGEL GOLDING AND PATRICK KARPIN

DATE OF INCIDENT: JANUARY 5, 2020

Dated: August 18, 2020

Scope of the Investigation

This is the final report of the Delaware Department of Justice, Division of Civil Rights and Public Trust, arising out of the investigation of the use of deadly force by Corporal Nigel Golding and Patrolman Patrick Karpin against Brandon D. Roberts (referred to hereinafter as “Mr. Roberts”). The Division of Civil Rights and Public Trust reviewed evidence consisting of interviews of civilian witnesses, interviews of police witnesses, scene photos, 911 recordings, dispatch records, video footage (fixed cameras and police body-worn cameras), police reports, medical records, and the ballistics report. Attorneys with the Division of Civil Rights and Public Trust reviewed this use of force incident for the Department of Justice.

Purpose of the Department of Justice Report

The Department of Justice determines whether a law enforcement officer’s use of deadly force constitutes a criminal act. The Department of Justice does not establish or enforce internal police policies concerning the proper use of deadly force by law enforcement officers. Law enforcement agencies are responsible for establishing and enforcing guidelines for the use of force by their officers and for determining whether an officer’s actions were consistent with such guidelines in a given case. This report expresses no opinion on whether an involved officer’s actions complied with departmental policies or procedures.

Facts

On Sunday January 5, 2020 at approximately 6:33 P.M., Milford Police were dispatched to 21 Linstone Lane, Building 21 for a domestic-related assault in an unknown apartment. Dispatch advised Officers en route to the location that the incident was possibly in Apartment 5 and that dispatch had received multiple 911 disconnected calls from that apartment. Dispatch further advised that the female inside the apartment was pregnant and being held against her will – and that possible weapons were involved, including an AK-47 and a machete. They also advised that the male inside the apartment was threatening violence to law enforcement and may have mental health issues.

Officers Golding and Karpin were the first on scene and entered the building while assisting Officers maintained a perimeter on the outside of the building. Both Officers Golding and Karpin drew their service weapons and went upstairs where Apartment 5 was located. From the hallway they could hear screaming and loud banging within the apartment. Corporal Golding knocked on the door and announced that it was the Milford Police. Several seconds later the apartment door partially opens, enough that Corporal Golding could see a male subject (later identified as Mr. Roberts) standing behind the door, but Corporal Golding could not see Mr. Roberts’ hands.

Corporal Golding commanded that Mr. Roberts show his hands as the door began to close, at which point Corporal Golding reached to open the door further. Mr. Roberts then exited the

apartment into the hallway towards Corporal Golding, with a butcher knife in his right hand. Both officers had their firearms drawn when Mr. Roberts exited the apartment. Corporal Golding reached out with his free (left) hand in an attempt to block Mr. Roberts from moving Mr. Roberts' right hand (with the knife) towards Corporal Golding, but Corporal Golding missed. Corporal Golding backed up and continued to issue the command to "raise your hands," but he had no more room to retreat given the small confines of the hallway. Mr. Roberts continued to advance on Corporal Golding, at which point both Corporal Golding and Patrolman Karpin opened fire. Immediately prior to being shot, as he was exiting the apartment, Mr. Roberts shouted, "Shoot me."

After the shooting, both Officers Golding and Karpin rendered medical aid to Mr. Roberts but were ultimately unsuccessful. The encounter was captured on the body-worn cameras (BWC) worn by both Officers, which contained both audio and video of the incident. Additionally, a surveillance video system in the apartment hallway captured the incident, but the surveillance is without audio. The entire encounter occurred in less than ten (10) seconds, and it was only three (3) seconds from when Mr. Roberts initially opened the door to the shots being fired.

Police Witnesses:

Sergeant Timothy Lord:

Sergeant Lord was the patrol squad leader for Milford Police on January 5, 2020, and he was working the 7:00 A.M. to 7:00 P.M. shift that day. He was advised by dispatch of a domestic violence related 911 call coming from building 21 of the Silver Lake Estates Apartments. Units were dispatched to the area with Cpl. Golding and Ptlm. Karpin arriving first. By the time Sgt. Lord arrived to the scene, Cpl. Golding and Ptlm. Karpin had already attempted to make contact with Apartment 5. As Sgt. Lord arrived, he heard Ptlm. Karpin announce over the radio, "Shots fired." Sgt. Lord exited his vehicle and entered building 21 and saw glass on the floor. When he got to the second floor, Sgt. Lord asked, "Who shot?" One of the Officers responded, "We both did." Sgt. Lord could not recall which Officer responded. Sgt. Lord saw Mr. Roberts lying on the floor, not moving. He observed a knife lying next to him. He directed Ptlm. Medley to get an AED and medical bag to assist with first aid.

Sgt. Lord directed Ptlm. Karpin and Cpl. Collins to clear Apartment 5 and contact W1 and the infant inside. Cpl. Golding and assisting Officers rendered first aid while they awaited an ambulance. Sgt. Lord then contacted Lieutenant Jefferson and advised him of the incident and escorted Ptlm. Karpin and Cpl. Golding back outside to await his arrival. Sgt. Lord stated he had Corporal Brittingham transport both Cpl. Golding and Ptlm. Karpin back to the police station and advised them not to discuss the incident with each other.

Corporal John Collins:

Corporal Collins was interviewed as part of this investigation and stated that he was working the 7:00 A.M. to 7:00 P.M. shift on January 5, 2020. He heard over the radio a dispatch

for a domestic violence incident at 21 Linstone Lane. He recalled that dispatch advised that the suspect was supposed to have an AK-47 rifle and a machete. Dispatch continued to give several updates as he drove over, informing them that the subject was threatening violence towards the female occupant and law enforcement. When he arrived on scene, he responded to the rear of the building to provide backup. As he was approaching the rear door, he heard approximately six rapid shots followed by someone saying "suspect down" over the radio.

Cpl. Collins made his way to the second floor of the building where he observed Mr. Roberts lying on the floor bleeding. He advised the Officers to handcuff Mr. Roberts and begin first aid. He accompanied Ptlm. Karpin inside the apartment and made contact with W1. Ptlm. Karpin began to interview W1, but Sgt. Lord entered soon thereafter and advised Ptlm. Karpin to head back downstairs. Cpl. Collins stated he stood by until he was relieved.

Patrolman Brian Medley:

Patrolman Medley was interviewed by investigators and stated he was working the 7:00 A.M. to 7:00 P.M. shift on January 5, 2020 when he heard a call over the radio for a domestic violence situation at 21 Linstone Lane. As he was driving to the scene he heard dispatch advise that a female was screaming, and the suspect was possibly a mental patient holding her hostage. He also recalled dispatch advising that the suspect was threatening violence to both the female and law enforcement and may be armed with an AK-47 and a machete.

Cpl. Golding and Ptlm. Karpin had already arrived at the scene by the time Ptlm. Medley got there. Ptlm. Medley said he was instructed to go to the rear of the apartment building in case the suspect attempted to flee. Cpl. Golding and Ptlm. Karpin went in the front door and upstairs. From the rear of the building Ptlm. Medley heard yelling and someone saying "show me your hands" followed by multiple gunshots. After the gunshots, Ptlm. Medley entered the building and went to the second floor where he observed Mr. Roberts lying on the floor, bleeding. Ptlm. Medley responded back outside to his vehicle to retrieve a first aid kit and an AED. He went back inside and assisted Cpl. Golding with first aid to Mr. Roberts until relieved by ambulance personnel. He then went about helping to secure the scene and checking surrounding apartments to make sure no one was injured.

Patrolman Richard Dafonte:

Patrolman Dafonte was working the 7:00 A.M. to 7:00 P.M. shift on January 5, 2020 when he heard dispatch call out a domestic violence situation at 21 Linstone Lane where a suspect was armed with an AK-47 and a machete. Dispatch further advised a female could be heard screaming in the background. When Ptlm. Dafonte arrived on scene he went to the front door of the apartment building and stood inside the hallway at the bottom of the stairs, where he could see the door of Apartment 5. He witnessed Cpl. Golding knock on the door and announce, "Milford Police". He saw the door open slightly and heard one of the Officers say, "Show me your hands". He then heard approximately ten gunshots in quick succession.

Immediately after the shots were fired, he went upstairs to assist and observed Mr. Roberts lying on the floor with a knife next to him. Ptlm. Dafonte stayed upstairs assisting until Sgt. Lord and Cpl. Collins arrived, at which time he was assigned to help Ptlm. Medley with crime scene tape and securing the scene.

Primary Officers Interviews:

Corporal Nigel Golding:

Corporal Golding of the Milford Police was interviewed in connection to this case. He stated that he was working patrol from 6:00 P.M. to 6:00 A.M. the next day. He heard a call for units to respond to 21 Linstone Lane Building 21 for a domestic violence incident. Dispatch had advised that a man was holding a woman against her will with an AK-47. Dispatch also advised that the subject may be a mental patient. Cpl. Golding was the first Officer to arrive on scene and waited for backup before entering. Shortly after he arrived, Ptlm. Karpin arrived, followed by Ptlm. Medley. Cpl. Golding ordered Ptlm. Medley to respond to the rear of the building in case the suspect attempted to flee while he and Ptlm. Karpin would go inside.

Cpl. Golding and Ptlm. Karpin entered, unholstered their weapons, went to the second floor of the building and approached Apartment 5. He said they could hear yelling inside the apartment, so he knocked on the door and announced that they were Milford Police. Cpl. Golding said the door opened a crack, but he could see a male standing just inside the doorway. He said the male opened the door all the way and came out of the apartment with a knife in his right hand, raising the knife towards him. Cpl. Golding told investigators that, at that moment, he thought he was a "dead man." He backed up and discharged his firearm two or three times, but the male continued advancing on him before he finally fell to the ground. Cpl. Golding said once the subject fell to the ground, they handcuffed him and began rendering first aid. He was eventually relieved by EMS personnel before being escorted out of the building by other Officers.

Patrolman Patrick Karpin:

Patrolman Karpin was interviewed in connection with this case and stated that he was working the day shift on January 5, 2020. He was at the police station doing evidentiary work when a call came through for a domestic-related incident at 21 Linstone Lane, with a possible weapon involved. Ptlm. Karpin recalled that dispatch had advised that a male was being aggressive and had a weapon, possibly a knife, and was refusing to let the female leave. He met with Cpl. Golding outside of building 21 and the two entered together. Ptlm. Medley went around to the rear of the building to provide support in case the suspect fled. Both Cpl. Golding and Ptlm. Karpin drew their firearms and walked up to the second floor, to Apartment 5. Ptlm. Karpin recalled hearing crashing and what sounded to him like someone getting assaulted.

Ptlm. Karpin told investigators that Cpl. Golding knocked on the door while he provided cover. It sounded to Ptlm. Karpin like the person opening the door was going to break it down.

He saw the door only open a few inches and could see hair and a body looking toward them. Cpl. Golding was yelling "let me see your hands" two or three times. Ptlm. Karpin saw the door open and the male subject exit, holding what looked to be a machete. The subject advanced on Cpl. Golding and began raising the knife towards him. At that time Ptlm. Karpin discharged his firearm multiple times at the subject. Ptlm. Karpin remembered the subject falling to the ground and rolling slightly. He said he believed the subject was going to get back up, and the knife was lying beside the subject.

Ptlm. Karpin told investigators that he believed the subject was going to kill one of them, and initially thought Mr. Roberts had made contact with Cpl. Golding with the knife. He remembered seeing the knife coming towards Cpl. Golding's neck when he fired his firearm. He remembered the event happening extremely fast and he did not recall Mr. Roberts saying anything before shots were fired. After the shooting, Cpl. Collins of the Milford Police came up the stairs and told them to handcuff Mr. Roberts and to start first aid. Ptlm. Karpin realized no one had checked the apartment, so he reloaded his firearm and entered with Cpl. Collins while Cpl. Golding performed first aid on Mr. Roberts.

Ptlm. Karpin located W1 and an infant, asked W1 if anyone was injured, which W1 denied. Ptlm. Karpin remembered W1's hair being "messed up" and the infant had vomit on himself. Ptlm. Karpin checked W1 and the infant for physical injuries, which were negative. During this time, W1 was talking to Ptlm. Karpin about what had occurred while being on the phone with another party. Sgt. Lord arrived shortly after and escorted Ptlm. Karpin out of the building.

Civilian Witnesses

Witness 1:

W1 was interviewed at the scene immediately after the shooting by Ptlm. Karpin. Ptlm. Karpin was primarily asking about any possible injury to W1 or the infant. W1 insisted that there were no injuries and refused medical treatment. W1 stated that Mr. Roberts had hit W1 and the infant and that because of this, W1 nearly dropped the infant. W1 said Mr. Roberts was "out of control" and that Mr. Roberts had "never acted like this." W1 advised that Mr. Roberts was bipolar and schizophrenic and had been consuming alcohol and Xanax. W1 said that she advised dispatch that Mr. Roberts was not armed, but acknowledged that Mr. Roberts had told dispatch he had multiple weapons.

During this interview, W1 was on the phone talking to another person. W1 told the caller that Mr. Roberts had "gone after the cops with a knife" and that he had "taken three Xanax on top of drinking." W1 told Ptlm. Karpin that Mr. Roberts was going to check himself into Dover Behavioral Health because he was not prescribed any medication and needed treatment. W1 said that Mr. Roberts "just snapped" and that W1 did not want to call the police and that he was just having "one of his episodes." W1 also told Ptlm. Karpin that Mr. Roberts was concerned W1 was talking to other people and that Mr. Roberts became more aggressive, hitting W1 in the

head. W1 told Mr. Roberts that W1 was going to leave with the infant. Soon after this, Ptlm. Karpin discontinued the interview and was escorted out by Sgt. Lord.

A second interview with W1 was conducted later that night by Delaware State Police. W1 told the detectives that W1 had a child with Mr. Roberts and was five months pregnant with Mr. Roberts' other child. W1 stated that Mr. Roberts had been diagnosed with bipolar disorder and anxiety and was showing signs of PTSD. Mr. Roberts had a follow-up appointment with The Mind and Body Consortium in Dover on the 15th. W1 also told the detective that Mr. Roberts had a history of self-medicating and abusing prescription drugs, specifically Xanax and "Molly." On the night of January 5, 2020, W1 said that Mr. Roberts ingested three Xanax pills and W1 assumed he also ingested Molly based on the way he was acting. W1 said that Mr. Roberts told W1 he ingested the drugs because he was "bored", but W1 believed he took the drugs because he was "stressed out."

W1 said she went across the hall to visit a neighbor for approximately 15 minutes and when W1 returned, she noticed that Mr. Roberts had consumed multiple alcoholic beverages. W1 said Mr. Roberts was "talking crazy" and was paranoid, believing that W1 had other men in the apartment. W1 tried to walk away from Mr. Roberts but he grabbed W1 by the arms and squeezed so hard it caused pain. W1 picked up the baby and tried to walk away from Mr. Roberts but he followed and hit W1 in the head, buttocks and back areas. W1 put the baby in the crib and started fighting Mr. Roberts. W1 told Mr. Roberts that W1 was going to leave him, abort his unborn child and that someone else would raise the baby with W1. W1 also told detectives that Mr. Roberts had accidentally hit the baby while hitting W1.

According to W1, Mr. Roberts picked up W1's cell phone and called 911. W1 said Mr. Roberts told the 911 dispatcher to have the police come because they were having a domestic dispute. W1 also said Mr. Roberts told the 911 operator that he was a member of the terror group ISIS and that he was going to "blow this bitch up." He also told the 911 operator that he had guns and that when police arrived he would not go down without a fight. W1 said Mr. Roberts told W1 he no longer cared and W1 said Mr. Roberts looked different and W1 had never seen him act this way before.

W1 managed to get the phone from Mr. Roberts and told the 911 operator that Mr. Roberts did not have any firearms, "only a knife." W1 said Mr. Roberts grabbed a knife from the kitchen and went to the door after seeing the police lights outside.

W1 then received a phone call and informed the detective that W1 was ending the interview and would not take any more questions. Afterwards, W1 told the detective that Mr. Roberts never pointed the knife at the police, but always had it pointed down.

A third interview was conducted with W1 by Delaware State Police detectives who officially notified W1 of Mr. Roberts' death. W1 told detectives that W1 had an argument with Mr. Roberts and threatened to call 911 but that Mr. Roberts called them himself. W1 said that

they were going to call 911 because Mr. Roberts had hit W1 and the baby. W1 said that Mr. Roberts had taken Xanax and Molly and that W1 had never seen Mr. Roberts act that way before. W1 said Mr. Roberts was bipolar and had PTSD but was trying to get help. W1 believed Mr. Roberts was depressed because of lack of money and was taking pills and drinking because of it.

W1 told detectives that Mr. Roberts had hit W1 in the head and ribs and had accidentally hit the baby as well. W1 picked up the baby and went to the back bedroom and put the baby in a crib. W1 told Mr. Roberts that W1 was leaving with the baby and was going to abort the baby W1 was carrying. Mr. Roberts then grabbed the phone and told W1 to call 911 and told W1 that he would "F up" the cops too.

W1 said that when police banged on the door, Mr. Roberts picked up a knife and went to the door. W1 told Mr. Roberts, "Please don't pick up no knife" and "stop acting stupid." W1 said they told the dispatch that Mr. Roberts was just having a mental breakdown. W1 said they were in the back bedroom and "could see a little bit, but not really." W1 said Mr. Roberts opened the door with the knife in hand, but that "he never lifted it." W1 also said Mr. Roberts had the knife in his left hand because he was left handed. W1 heard police issue the command, "put your hands up". According to W1, Mr. Roberts never stepped foot outside of the apartment when police shot him. W1 said that Mr. Roberts was lying inside the apartment, but the blood was out on the landing.

Witness 2:

W2 was interviewed in connection with this case and advised that s/he was in a nearby apartment babysitting, when W2 heard the sound of someone running up the stairs. W2 then heard what they believe to be a police officer's voice saying something like "put your hands up" or "stop." W2 then heard approximately four shots. When W2 went outside to look, an officer told W2 to stay inside. W2 also told officers that right before the incident they saw W1 doing laundry in the nearby laundry room.

Witness 3:

W3 was in their apartment and heard an Officer say "police" followed by approximately three to four gunshots. W3 had no other information.

Witness 4:

W4 was at home with her/his children at the time and heard knocking from the hallway and someone said, "this is the police." W4 heard, "put your hands up" and then approximately nine gunshots and glass breaking.

Witness 5:

W5 was at home at the time of the incident and heard a lot of noise outside and then gunshots. W5 looked out her/his peephole in the door and saw Officers standing in the hall, and claimed to have heard an officer say “good job” to another Officer.¹

Witness 6:

W6 was at home at the time of the incident with Witness 7. W6 was in the back bedroom and heard four to six gunshots.

Witness 7:

W7 was in the kitchen at the time of the incident and heard police say, “put your hands up” followed by four to five gunshots.

Witness 8:

W8 was friends with W1 and lived in a nearby apartment. However, at the time of the incident W8 had just left her/his apartment and was not present. W8 said that on January 5, 2020, s/he went to W1’s apartment and got the baby and brought the baby back to the apartment. W1 then came over shortly after and stayed for about thirty to forty-five minutes. Mr. Roberts knocked on the door and asked for a cigarette and then went back to his apartment. W8 said Mr. Roberts appeared fine and did not notice anything wrong with him. About thirty minutes later as W8 was leaving, W1 went back to their apartment with the baby.

W8 did say that they were aware that Mr. Roberts had assaulted W1 the night before and that he self-medicated with Xanax and “Molly”. W8 also said there was another witness present but refused to name the witness or provide them to investigators.

Physical Evidence**Surveillance Video:**

Two surveillance cameras were located in Building 21, one on the first floor and another on the second floor, neither had audio. The first-floor camera showed the Officers arriving and going upstairs. After the shooting, additional Officers can be seen arriving followed by emergency personnel. The second camera was located in the hallway outside of apartment five, showing the door of apartment five and eight and going down the hall towards the laundry room and the stairwell. At approximately 6:27pm two Milford Police Officers (Cpl. Golding and Ptlm. Karpin) can be seen walking up the steps to the hallway and unholstering their firearms. Cpl.

¹ After reviewing all six body worn cameras available from that night, no officer can be heard saying “good job” at any time.

Golding can be seen looking in the laundry room at the end of the hall before turning and making his way towards apartment five.

Cpl. Golding walked up to apartment five and listened for a moment before knocking on the door at 6:27:38.



After knocking, Cpl. Golding activated the flashlight on his firearm. Ptlm. Karpin was standing behind Cpl. Golding and after the knock, Ptlm. Karpin moved to Cpl. Golding's left closer to the wall next to the door.

At 6:27:45 Cpl. Golding can be seen going towards the door and attempting to push it open. At 6:27:46 Mr. Roberts exited the apartment with a large knife in his right hand, advancing on Cpl. Golding.



The video shows Cpl. Golding retreating, while reaching out with his left hand to trying to keep Mr. Roberts' right arm down.



Cpl. Golding's hand missed Mr. Roberts' arm and Mr. Roberts continued to advance on Cpl. Golding.



At 6:27:48, both officers opened fire. Mr. Roberts fell to the floor and dropped the knife. The video then shows Mr. Roberts being handcuffed and Officers attempting first aid. At 6:33:32, emergency personnel arrive.

Body Worn Cameras:

Multiple Officers who responded to the scene were equipped with body worn cameras, including Cpl. Golding and Ptlm. Karpin. Because BWC are equipped on the uniforms of the Officers, audio from a distance can sometimes be difficult to make out due to the sound of fabric jostling. Both Cpl. Golding and Ptlm. Karpin activated their BWC before they entered the building. Both showed them entering, going upstairs and drawing their firearms. At the top of the stairs, Cpl. Golding stopped to look in a laundry room at the end of the hall, and then turned and headed down the hall towards Apartment 5. As both Ptlm. Karpin and Cpl. Golding approached Apartment 5, some banging and yelling could be faintly heard.

Cpl. Golding stopped before the door of Apartment 5, put his head to the door, and listened inside for a moment. Cpl. Golding then activated his flashlight, knocked on the door and loudly announced "Milford Police." Ptlm. Karpin was standing behind and slightly to the left of Cpl. Golding and moved further left, to Cpl. Golding's right, up against the wall. The door cannot be seen on Ptlm. Karpin's BWC but can be seen on Cpl. Golding's BWC. After Cpl. Golding knocked on the door and announced police presence, the door opened approximately twelve inches, enough so that the left arm and about one quarter of Mr. Roberts' body can be seen. Mr. Roberts' face and the right side of his body including his right hand were obstructed by the wall. Both Officers can be heard yelling "show me your hands" multiple times, but Mr. Roberts did not react.

After multiple commands and no movement by Mr. Roberts, Cpl. Golding reached towards the door in an attempt to push it open further. Mr. Roberts then exited the apartment and advanced towards Cpl. Golding. Cpl. Golding and Ptlm. Karpin both retreated, Cpl. Golding backed up towards the door of Apartment 8 and Ptlm. Karpin stepped back down the hall. Cpl. Golding continued to say, "raise your hands" as Mr. Roberts advanced. Visible in Mr. Roberts' right hand was a large knife, held down towards the floor. As Mr. Roberts came towards Cpl. Golding, Cpl. Golding reached out with his left hand to try and block Mr. Roberts' arm from coming up, but Cpl. Golding missed. Mr. Roberts' arm with the knife moved back, and Mr. Roberts then said "shoot me" as he continued walking towards Cpl. Golding. Both Cpl. Golding and Ptlm. Karpin fired their service weapons at Mr. Roberts. Mr. Roberts' arm also moves forward, towards Cpl. Golding.

Mr. Roberts then fell to the ground and Ptlm. Karpin radioed "shots fired." Ptlm. Karpin then asked Cpl. Golding "are you good?" to which Cpl. Golding responds, "yeah." Ptlm. Karpin again asked Cpl. Golding, "you good?" and Cpl. Golding again says, "yeah." Other Officers

began arriving with one asking, “who shot?” Cpl. Golding responded, “both units.”² Sgt. Lord came upstairs and told both Officers to handcuff Mr. Roberts and take vitals. Ptlm. Karpin responded that he had no pulse and Sgt. Lord advised him to begin CPR while they waited for the med kit. After performing CPR for approximately a minute, Ptlm. Karpin said they needed to check on the female inside and clear the apartment. Cpl. Golding said, “good call” and took over the CPR.

911 Call:

Multiple 911 calls were received on the night of January 5, 2020 with most of them ended by the caller. One call eventually made it through with Mr. Roberts on the end of the call saying that there was “a domestic dispute at 21 Linstone Road, Apartment . . .” and then Mr. Roberts trailed off. Mr. Roberts then told the operator, “he has a gun and he’s about to shoot everybody.” Mr. Roberts then repeated the address and was speaking so quickly the operator could not understand him and asked him to slow down. The operator could not get the whole address and again asked Mr. Roberts the address at which point the line went dead.

Another call was received, and Mr. Roberts was heard again saying, “I’m holding them hostage, 911”. The operator asked, “what’s the address?” and W1 could be heard in the background with a crying baby. Mr. Roberts then said, “I just fucked up the rest of my life.” Mr. Roberts then handed the phone to W1 saying “here, talk to them.” W1 got on the phone and apologized to the operator saying that they needed to speak to Mr. Roberts’ mom. W1 then said, “I can’t use my phone because somebody is here and keeps trying to hit on me, and I’m pregnant, and he won’t let me use my phone.” W1 then gave the address to the operator but not the apartment number.

The operator asked for the apartment number but W1 said, “I kind of don’t want to give you the apartment number, because he keeps trying to go out there with a knife.” Mr. Roberts could then be heard in the background saying, “Apartment 5. And any cops that pull up here, I’m killing all ya’ll bitch ass, cracker ass motherfuckers.” The operator asked if he had any weapons, Roberts responded “yeah I’ve got a weapon, I got a big ass machete, I got an AK-47, and a bomb strapped to me, I’m part of ISIS, I’m about to blow this whole shit up.” The operator then asked who was talking, the female or a male in the background. After a moment W1 answered, “it’s a male in the background.”

The operator asked for their names but received no answer. Mr. Roberts could be heard in the background talking, but what he was saying cannot be understood. He told W1 he loved W1, and W1 responded, “No you don’t.” Mr. Roberts then said, “They ain’t locking me up, they gonna kill me.” W1 then told Mr. Roberts that they are leaving and said, “You put your hands

² W5 told investigators that s/he heard someone say, “good job” after the shooting, however the body camera audio does not support this. The audio of the body cameras makes this moment sound like, “good shot” but what was being asked was “who shot?” which prompts Golding’s response, “both units.”

on me and you hit the baby on accident, you stupid dog.” The operator again asked for their names, W1 provided their name, but not Mr. Roberts’ name. W1 then went back to talking to Mr. Roberts and said, “If you want to fight the cops, you go ahead.” Mr. Roberts responded, but it could not be made out and W1 then said, “Go ahead, but I’m not even going to witness it.”

The operator asked W1, “Rather than fighting with him, is there any way you can leave?” W1 responded, “No, he’s not letting me out of the room.” Mr. Roberts then got on the phone again and said, “I’m going to come outside and y’all are going to have to shoot me, because I’m not going to jail.” Mr. Roberts then said “she can leave if she wants to” and repeated the address. W1 told the operator again that they could not leave because “he’s not letting me out the room.” The operator asked where W1 is in the apartment and W1 could be heard faintly saying “the bathroom.” The operator then asked where Mr. Roberts kept the weapons, and W1 quietly responded that there are no weapons, but the operator had to ask again because the answer was too quiet to understand. W1 then said “there is only a knife” and described it as a “house knife.” W1 then told the operator, “He has a mental disability so that’s why he’s acting like this.”

The operator asked if W1 needs an ambulance and W1 said “yes, I do.” The operator asked what kind of injuries W1 had to which W1 responded, “I don’t know, because he was just punching me in my head and punching me in my back and everything else. And punching me in my ribs and I’m pregnant.” The operator asked if there were any children present and W1 answered, “Yes.” W1 then said they can see the police pulling up and that Mr. Roberts did not have a gun on him. The operator asked if he has a knife on him still and W1 said, “I don’t know, I don’t see the knife on him.” Mr. Roberts could be heard in the background talking to the baby saying, “I love you, ok, I love you. This will be the last time you see me.”

Approximately two seconds before Officers can be heard knocking on the door, W1 told the operator, “He had a mental disability, so please take it easy on him because he is bipolar, and he is schizophrenic and yes, he does have a mental disability. He has anxiety and he has a lot of other problems that we don’t know yet.” In the background, Officers could be heard yelling “let me see your hands” at least twice, and then “raise your hands” multiple times in rapid succession. Then multiple gunshots can be heard in the background.

The operator asked if police are there and W1 can be heard saying, “Oh my God, I told you he had a disability, did they really shoot him?” The operator asked if W1 is there and W1 responded, “Oh my God, they really shot him.” The operator then hung up.

Fingerprint Analysis:

No fingerprint testing was conducted.

DNA Testing:

DNA testing was conducted on the recovered knife:



The handle and the blade were both independently swabbed and compared to the DNA profile obtained from Mr. Roberts. The blade did not return any DNA profile. The handle returned a mixed DNA profile consistent with at least three individuals, at least one of whom is male. However due to the complexity of the mixture, no comparison to a single DNA profile could be made.

Medical Report:

Mr. Roberts cause of death was homicide caused by multiple gunshot wounds. The autopsy noted eight distinct gunshot wounds. Wound one was an entrance wound to his left neck, a projectile was recovered from this wound. Wound two was to the mid chest, a projectile was recovered from this wound in the right lateral chest. Wound three was an entrance wound to the left posterior shoulder with an exit wound in the left shoulder, no projectile was recovered. Wound four was an entrance wound in the left superior elbow with an exit wound in the left elbow, no projectile was recovered. Wound five was an entrance wound in the left anterior elbow with an exit wound at the left interior elbow, no projectile was recovered. Wound six was an entrance wound in the left interior rib cage, a projectile was recovered in the soft tissue adjacent to the scapula. Wound seven was an entrance wound in the left back, with an exit wound in the left lateral chest, no projectile was recovered. Wound eight was an entrance wound in the right chest/abdomen with a projectile recovered in the liver.

The post-mortem toxicology report showed confirmations for Cannabinoids, and Alcohol. The amount of alcohol in the blood stream varied depending on where in the body it was tested. The blood drawn from the chest cavity had a blood alcohol content of 0.111%, while the blood drawn from the urine was 0.185%.

Ballistics Report:

Both Officers Golding's and Karpin's firearms were taken and tested. Ten bullet casings were located and eight projectiles, five of them recovered from Mr. Roberts' body. Of the ten casings recovered, seven were fired from Ptlm. Karpin's firearm, while the remaining three were fired from Cpl. Golding's firearm. None of the projectiles recovered could be identified or eliminated as having been fired from either of the tested firearms.

Conclusion

The State must determine whether the use of deadly force by both Corporal Golding and Patrolman Karpin against Mr. Roberts was a criminal act. Title 11 Section 464 of the Delaware Code defines the legal use of force in self-protection. It provides, in pertinent part, that "[t]he use of force upon or toward another person is justifiable when the [officer] believes that such force is immediately necessary for the purpose of protecting the [officer] against the use of unlawful force by the other person on the present occasion."³

Under Delaware law, the subjective state of mind of any person, in this case the law-enforcement officer, is the legal test to determine whether the use of force was legally justifiable against another person. The specific factual inquiry is two-pronged. The first question is whether the officer actually believed, at the time they intentionally fired their weapon, that such action was necessary to protect them self or others from death or serious physical injury. The second question is whether the officer was reckless or negligent in having such belief, or in acquiring or failing to acquire any knowledge or belief, which is material to the justifiability of the use of force. 11 *Del. C.* § 470(a). If such force is determined to have been justified, we will also examine whether such force negligently or recklessly created injury or risk of injury to innocent third parties pursuant to 11 *Del. C.* § 470(b).

The facts available to both Officers on January 5, 2020 were that a domestic violence incident was unfolding with a male who was armed with at least a knife (and potentially an automatic rifle), beating a female, and refusing to let her leave. The 911 call that was received featured Mr. Roberts saying that there was a man with a gun who was holding people hostage. He

³ Justification of use of force for the protection of other persons is also applicable, *See* 11 *Del. C.* § 465 "(a) The use of force upon or toward the person of another is justifiable to protect a third person when: (1) The defendant would have been justified under § 464 of this title in using such force to protect the defendant against the injury the defendant believes to be threatened to the person whom the defendant seeks to protect; and (2) Under the circumstances as the defendant believes them to be, the person whom the defendant seeks to protect would have been justified in using such protective force; and (3) The defendant believes that intervention is necessary for the protection of the other person."

also said that he had a machete, an AK-47, and a bomb. W1 got on the phone and told the operator that Mr. Roberts was not armed with those weapons, but that he did have a knife. W1 also told the operator that Mr. Roberts had physically assaulted W1, hit their baby, refused to let W1 use the phone, and would not let W1 leave. In addition, W1 said that she was injured and required an ambulance. Mr. Roberts said that the police would have to kill him because he would not go back to jail and said farewell to his baby. He told W1 to come outside and watch the police kill him.

When police arrived, they heard banging and shouting from within the apartment. Cpl. Golding listened for a moment before knocking on the door and announcing that they were Milford Police. Mr. Roberts opened the door slightly but not enough so that his hands were fully visible. Multiple commands were issued for Mr. Roberts to show his hands, and to raise his hands. Mr. Roberts exited the apartment and advanced towards Cpl. Golding with a knife in his right hand. Cpl. Golding backed up, but given the confines of the hallway, had little room to maneuver. Cpl. Golding reached out to try and grab Mr. Roberts' arm carrying the knife but was unable to do so. Mr. Roberts continued coming towards Cpl. Golding with the knife, and Mr. Roberts yelled "shoot me." Three seconds elapsed from the moment Mr. Roberts opened the door to the moment shots were fired. Based upon this information, we determine that both Corporal Golding and Patrolman Karpin actually believed, at the time they fired, that the use of force was necessary to protect themselves.

The second portion of the inquiry regarding the actions of Corporal Golding and Patrolman Karpin requires a legal assessment as to whether they were reckless or negligent in forming the belief that force was immediately necessary. We determine that they were not. Both Officers were aware that W1 had told dispatch that W1 and a child were inside and being held hostage. W1 was also, by their own admission, injured and pregnant, and had a baby that had also been hit. The Officers were also aware that Roberts was armed, although they were unsure with what weapon exactly. Officers had little choice but to knock on the door and make contact, or risk further potential injury to the victims inside. Cpl. Golding knocked and, when Mr. Roberts appeared, both Officers issued multiple commands for him to show and raise his hands. Mr. Roberts refused and exited the apartment, advancing on Cpl. Golding with a large knife. Neither Officer escalated the encounter. Instead, Cpl. Golding attempted to retreat but ran out of room. Officers commanded Mr. Roberts to "show [them his] hands," and Cpl. Golding attempted to push away Mr. Roberts' knife hand, but missed. At that point, the videos show that Mr. Roberts began to raise the knife hand towards Cpl. Golding, at which point Ptlm. Karpin fired the first shot. Mere seconds elapsed from the time Mr. Roberts exited the apartment, lunged towards Cpl. Golding, and the first shot was fired. Based upon this information, we determine that they were neither reckless nor negligent in forming the belief that force was immediately necessary.

Lastly, given that it has been established the both Officers were justified in the use of force towards Mr. Roberts, we will now examine whether the use of force recklessly or negligently created injury or risk of injury to innocent third parties under 11 *Del. C.* § 470(b). Cpl. Golding knocked on the door of the apartment and took a step back after pushing the door open once, it appears from body camera footage, Mr. Roberts began to close it just after opening it. Ptlm. Karpin

was to his right, up against the wall and perpendicular to the door. Because of Ptlm. Karpin's location, when he fired his weapon at Mr. Roberts, he was firing out of the building, not into the apartment. Ptlm. Karpin's firing position did not put innocent third parties at risk of injury and was therefore justified.

Cpl. Golding's firing angle necessitated firing in the approximate direction of the apartment. Though this did create a risk of injury, we find that such risk was neither reckless nor negligent. As Mr. Roberts exited towards Cpl. Golding, Cpl. Golding retreated but was soon out of available space to move elsewhere – there was a railing to both his left and his right and a door to another apartment behind him. Given the small confines of the hallway, Cpl. Golding could only move forward. Because Mr. Roberts had a large knife, engaging Mr. Roberts in a hand-to-hand struggle could have resulted in Cpl. Golding being seriously injured or worse. Despite that risk, Cpl. Golding did attempt to reach out and grapple Mr. Roberts' knife hand – but his arm missed Mr. Roberts' hand and necessitated the immediate use of force. Further, from his vantage point, Cpl. Golding could not see anyone else behind Mr. Roberts. Considering the totality of the circumstances, Cpl. Golding neither recklessly nor negligently created a risk of injury to third parties by firing his weapon at Mr. Roberts in the direction of the apartment.

Based on the available evidence and the application of expert opinion to that evidence, we have concluded that it was objectively reasonable for Corporal Golding and Patrolman Karpin to believe that the use of deadly force upon Mr. Roberts was immediately necessary for the purpose of protecting themselves. For these reasons, the Department of Justice concludes the use of deadly force by Corporal Golding and Patrolman Karpin upon Mr. Roberts does not constitute a criminal offense under the laws of the State of Delaware.